IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 8029 of 1999

Between:

1 V. Lakshminarayana Reddy S/o. Lakshmi Reddy
Anantharajupet Village, Railway Koduru-516105
Cuddapah District.
2 V. Ramachandra Reddy S/o. Lakshmi Reddy
Anantharajupet Village, Railway Koduru-516105
Cuddapah District.
3 Shaik Mahaboob S/o. Sadu Saheb
Raghavarajupuram, Anantharajupet Village-516105
Cuddapah district.

..... PETITIONERS

AND

1 Commissioner & Director of Agriculture, Government of Andhra Pradesh,
Fatehmaidan Road, Hyderabad.
2 Government of Andhra Pradesh represented by its Secretary,
Agriculture & Co-op. Department, Secretariat, Hyderabad.
3 A.P. State Agro Industries Development Corporation Limited Rep. by its

Vice Chairman & Managing Director. H.No. 10-2-3, A.C.Guards,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the action of the respondents 1 and 2 in not treating the petitioners as Government Employees for the pensionary benefits as illegal, discriminatory and arbitrary and consequently direct the respondents 1 and 2

to treat the petitioners as Government employees for the purpose of pensionary and consequential benefits on par with Sri Kalesha and P. Dastagiri Khan.

Counsel for the Petitioners: MR.G.VIDYASAGAR

Counsel for the Respondent Nos.1 and 2: GP FOR COOPERATION

Counsel for the Respondent No.3: Mr.P.BALARAM

The Court made the following :

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ORDER:

This writ petition is filed to issue a *mandamus* declaring the action of respondents 1 and 2 in not treating the petitioners as Government employees for the pensionary benefits, as illegal, discriminatory and arbitrary and consequently to direct the respondents to treat the petitioners as Government employees for the purpose of extending pensionary benefits on par with one Sri Kalesha and P.Dastagiri Khan.

2. It is the case of the petitioners that the first petitioner and second petitioner were appointed as unskilled mazdoor in Government Fruit Preservation Factory, Anantarajupet, with effect from 01-09-1959 and the third petitioner joined as a regular unskilled mazdoor with effect from 14-08-1957. They have been further promoted and also retired from the service of the third respondent-organisation. It is their case that the Government of A.P. transferred the Government Fruit Preservation Factory, Anantarajupet, to the control of A.P. State Agro Industries Development Corporation Limited with effect from 01-07-1973 vide G.O.Ms.No.720, dated 12-05-1972, of Food & Agriculture Department and thus the services of the petitioners transferred to the fold of the third respondent-organisation. Consequent upon the transfer, all the petitioners herein have been working in the third respondent-organisation. After having worked about 21 to 24 years, they have retired from service. Since the petitioners were initially recruited in the Government service and consequent upon the transfer of the undertaking they came to the fold of the A.P. State Industries Development Corporation Limited, they should be treated as Government employees for the purpose of extending all the benefits including pensionary benefits. It is their case that the cases of one, Kalesha and P.Dastagiri Khan were considered under similar circumstances by issuance of G.O.Rt.No.980 dated 03-10-1996 and G.O.Ms.No.398, dated 29-07-1985 respectively and their services have been treated as Government employees for the purpose of pensionary benefits. When the petitioners made such representations, there was no response

from the respondents. Hence, this writ petition.

3 . A detailed counter-affidavit has been filed by the first respondent denying the allegations made by the petitioners. However, it was stated that the first and second respondents have transferred the Government Fruit Preservation Factory along with staff working therein to the control of third respondent-A.P. State Agro Industries Development Corporation Limited, A.P., Hyderabad, vide G.O.Ms.No.720 dated 12-05-1972. The petitioners have opted to come into services of the third respondent from 01-07-1973. Thus, they were not Government employees from 01-07-1973 onwards. On attaining the age of superannuation, the petitioners 1 and 3 retired from service and they were paid all the retirement benefits. However, insofar as second petitioner is concerned, he retired voluntarily as office boy on 31-10-1997 under Agro Employees Retirement Scheme, 1997. As per the G.O.Ms.No.720 dated 12-05-1972, staff of the factory was deputed temporarily to work under the control of the third respondent, pending finalisation of the terms and conditions of the transfer. Pending finalisation of the absorption, it was also contemplated that if any member of the staff did not want to go over to the third respondent-organisation, he would have to be provided with the alternative job, if possible, by finding suitable vacancies by first respondent within a period of one year. But, none of the petitioners sought repatriation to their parent department at that time. On the other hand, they have accepted the offer of the appointment with the third respondent and remained as workers of the third respondent-organisation and when they have retired on attaining the age of superannuaction and taking voluntary retirement, they were paid all the benefits as per the rules of the third respondent-organisation. It is also further asserted that even before filing of the writ petition, representations of the petitioners in this regard were considered and rejected by the Corporation stating that the petitioners have opted to be in the service of the corporation with effect from 01-07-1973 and as such they have no claim whatsoever to treat them as Government employees and they cannot get pensionary benefits as applicable to the Government employees.

4. I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also gone through the material made available on record. As seen from the above, admittedly, this is as case where the petitioners were originally appointed in the Government Fruit Preservation Factory, Anantarajupet. However, that factory was handed over to the control of third

respondent-A.P. State Agro Industries Development Corporation Limited, Hyderabad. The petitioners and others were asked to submit their option as to whether they are willing to continue in the corporation or not. The petitioners have opted to be absorbed in the service of the third respondent with effect from 01-07-1973 and after serving for 21 to 24 years, petitioners 1 and 3 retired from service on superannuation and petitioner No.2 retired from service under voluntary retirement scheme and they were also paid all the benefits as per their eligibility. The only grievance of the petitioners is that the Government has considered the cases of one Kalisha and P.Dastagiri Khan and the petitioners also similarly situate. In fact, the petitioners could not make out any case as to similarity, except stating that they were also employees of the Government Fruit Preservation Factory. But, as seen from the G.Os. filed, considering the cases of Kalesha and P.Dastagiri Khan, their services were treated as a Government service as per the recommendations of the Commissioner of Agriculture and Director of Agriculture respectively. In this case, admittedly, the case of the petitioners was rejected positively by the Government.

5. Therefore, the writ petition is devoid of merit and is accordingly dismissed. No order as to costs.

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C.V.RAMULU, J.

Dated 06-07-2005.

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..... REGISTRAR

copy to:

1 Commissioner & Director of Agriculture, Government of Andhra Pradesh, Fatehmaidan Road, Hyderabad.
2 The Secretary, Government of Andhra Pradesh, Agriculture & Co-op. Department, Secretariat, Hyderabad.
3 The Vice Chairman & Managing Director, A.P. State Agro Industries

Development Corporation Limited, H.No.10-2-3, A.C. Guards,

Hyderabad.

4 2 CCs to G.P. for Co-operation, High Court Buildings, Hyderabad, (OUT).

2 CD copies

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